

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
April 18, 2019
6:30 PM**

The Town of Manlius, Zoning Board of Appeals assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Chairman K.P. Kelly presiding and the following Board members present:

Member	Jim Campbell
Member	Al Ruthig
Member	Clare Miller
Member	Judy Salamone
Secretary	Allison Weber
Attorney	Jamie Sutphen

Also, Present: Alan Gutierrez, 105 Fallen Oaks Dr., Manlius, Applicant.

The Pledge of Allegiance was recited. The meeting was called to order at 6:30 PM.

Minutes

Member Campbell made a motion, seconded by Member Miller, to approve the minutes of March 21, 2019 as submitted by Secretary Weber and it was carried unanimously. Member Ruthig abstained.

Member Ruthig made a motion, seconded by Member Campbell, to approve the minutes of November 15, 2018 as submitted by Secretary Weber and it was carried unanimously. Member Salamone and Member Miller abstained.

Legal Notices

Member Ruthig made a motion, seconded by Member Campbell to waive the reading of the public notices and it was carried unanimously.

Alan Gutierrez, 105 Fallen Oaks Dr., Manlius NY 13104– PUBLIC HEARING - a rear yard variance of 10 feet to construct a pool 15 feet from the rear yard instead of the required 25 feet at the property located at 105 Fallen Oaks Dr., Manlius NY 13104. (Tax Map# 117.2-03-11.0)

Mr. Gutierrez presented the application to construct a pool at the property located at 105 Fallen Oaks Dr., Manlius NY.

Chairman Kelly asked if the neighbors had been notified. Mr. Gutierrez answered yes.

Chairman Kelly proceeded with the applicant through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Gutierrez answered no.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Gutierrez answered no.
- 3) Whether the requested Variance is substantial? Mr. Gutierrez answered no.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Gutierrez answered no.
- 5) Whether the alleged difficulty was self-created? Mr. Gutierrez answered no.

Board Questions

Member Salamone asked the applicant if the pool would be fenced in. Mr. Gutierrez answered yes.

Member Miller asked for clarification on the walkway between the applicants home and the neighboring home. Mr. Gutierrez discussed the drainage easement between the properties.

Member Ruthig asked the applicant if his fence is on the property line? Mr. Gutierrez stated no.

There being no comment from the public, Member Campbell made a motion, seconded by Member Ruthig, to close the public hearing at 6:41 PM. The motion was carried unanimously.

Member Ruthig stated that the proposal looks fine. Member Ruthig stated that the applicant has a limited amount of space, the yard is enclosed and the pool will be invisible to the neighborhood.

Member Campbell stated that the pool will not be visible from the road.

Attorney Sutphen proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no. The applicant showed that he would not be able install a pool in a safe manner without the variance due to the limited space in the yard.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no. The back of the property is surrounded by a conservation easement so there are no neighbors behind it.
- 3) Whether the requested Variance is substantial? The board answered no. It is only a 10 foot variance.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes but it is not determinative of the final decision of the Board.

SEQRA Review

Chairman Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Ruthig made a motion, seconded by Member Campbell, to grant Alan Gutierrez a rear yard variance of 10 feet to construct a pool 15 feet from the rear yard instead of the required 25 feet at the property located at 105 Fallen Oaks Dr., Manlius NY 13104. (Tax Map# 117.2-03-11.0) with the condition that the pool will be a 16'x32' inground pool.

The Board voted as follows:

Chairman Kelly	Aye
Member Ruthig	Aye
Member Campbell	Aye
Member Miller	Aye
Member Salamone	Aye

The motion was carried.

Adjournment

With there being no other business, Member Miller made a motion, seconded by Member Salamone, and carried unanimously, to end the meeting at 6:47 PM

Respectfully submitted,
Allison Weber, Secretary
Zoning Board of Appeals